

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New)	NOTICE OF PUBLIC HEARING ON
Rules I through III, the amendment of)	PROPOSED ADOPTION,
ARM 42.20.102, 42.20.106,)	AMENDMENT, AND REPEAL
42.20.118, 42.20.156, 42.20.173,)	
42.20.302, 42.20.454, 42.20.455,)	
42.20.501, 42.20.502, 42.20.503,)	
42.20.504, 42.20.509, 42.20.515,)	
42.20.601, 42.20.603, 42.20.604,)	
42.20.606, 42.20.620, 42.20.660,)	
42.20.665, 42.20.670, 42.20.675,)	
42.20.680, 42.20.705, 42.20.720,)	
42.20.725, 42.20.730, 42.20.735,)	
42.20.740, and 42.20.745, and the)	
repeal of ARM 42.20.605, 42.20.607,)	
and 42.20.625 pertaining to the)	
valuation and classification of real)	
property)	

TO: All Concerned Persons

1. On November 12, 2014, at 10:30 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on November 3, 2014. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

3. The rules as proposed to be adopted provide as follows:

NEW RULE I AGRICULTURAL COMMODITY PRICES AND VALUES

(1) Commodity prices for the 2015 appraisal cycle used for the determination of income are calculated using a 10-year Olympic average of prices from Montana Agricultural Statistics for the years 2004-2013. An Olympic average throws out the high and low years and averages the remaining 8 years. The prices used for valuing agricultural land for the 2015 appraisal cycle are as follows:

(a) Spring wheat price used in the valuation of nonirrigated summer fallow and nonirrigated continuous cropped farm lands = \$6.36 per bushel.

(b) Alfalfa hay price, reduced by 20 percent as required by 15-7-201, MCA, used in the valuation of irrigated and nonirrigated hay lands = \$76.50 per ton.

(c) Private grazing fees used in the valuation of grazing lands = \$18.08 per Animal Unit Month (AUM).

(2) The minimum value of irrigated land as determined by the methodology detailed in ARM 42.20.675 = \$571.41 per acre.

(3) The statewide average grazing productivity = .21 AUMs per acre, and is used in calculating the values of:

(a) nonqualified agricultural lands; and

(b) nonproductive patented mining claims.

(4) For the 2015 appraisal cycle the capitalization rate for Class 3 agricultural land, which is used to convert an ongoing income stream into an estimate of value = 6.4 percent.

(5) For the 2015 appraisal cycle the highest productivity of nonirrigated continuously cropped farmland is 55 bushels per acre, and is used in calculating the values of specialty crop land.

AUTH: 15-1-201, MCA

IMP: 15-6-133, 15-7-201, 15-7-202, 15-7-203, 15-7-206, 15-7-207, 15-7-208, 15-7-209, 15-7-210, 15-7-212, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule I to consolidate the commodity prices, the minimum value of irrigated land, statewide average productivity of grazing land, the capitalization rate, and the highest productivity of nonirrigated continuously cropped farmland into a single rule. The department is proposing to strike these values from other agricultural rules in ARM Title 42, chapter 20, and placing them in this new rule.

NEW RULE II FAMILY FARM (1) Parcels of land between 20 acres and 160 acres that do not meet income requirements for agricultural eligibility as outlined in 15-7-202, MCA, but which are used for farming or ranching, or as a part of a family farm or ranch business as described in 15-7-202, MCA, may be valued as agricultural land if the taxpayer provides sufficient evidence, as described in this rule, to prove the property is part of a family farm or ranch business.

(2) The following proof of eligibility requirements will be considered when the owner of the land applies for agricultural land classification:

(a) the subject property must be located within 15 air miles of the family-operated farm or ranch;

(b) the owner of the subject property must submit proof that 51 percent or more of the owner's Montana annual gross income is derived from agricultural production;

(c) the property taxes on the subject property are paid by the family-operated farm or ranch business, which may be a family corporation, family partnership, sole proprietorship, or a family trust; and

(d) the owner of the property must submit documentation proving that at least 51 percent of the farm or ranch entity's Montana annual gross income is derived from agricultural production.

(3) If the conditions of (2) are satisfied, the land is eligible for agricultural classification.

(4) The department will accept a copy of a cancelled check as proof of payment of property taxes by the family-operated business entity. Other acceptable proof of payments of the property taxes will be considered on a case-by-case basis.

(5) If the owner of the subject property, which does not meet the requirements to be classified and valued as agricultural land, is a shareholder, partner, owner, or member of the family-operated farming or ranching entity involved in Montana agricultural production, the property owner may qualify the subject property as agricultural land if proof is submitted that details the legal relationship between the owner and the family-operated farming or ranching business entity. This proof must include:

(a) a copy of the documents that establish a legal relationship with the family-operated farming or ranching business entity, such as the documents on file with the Secretary of State; and

(b) proof that at least 51 percent of the property owner's or family-operated farming or ranching business entity's Montana annual gross income comes from agricultural production.

(6) If the conditions of this rule are satisfied, the land is eligible for classification as agricultural land according to its use.

(7) For all applications received under this rule, the acceptable proof of income will be the most recent year's Montana individual and/or corporate tax return, whichever is appropriate. The forms presented as proof must include all state and federal tax forms that detail the amount of income received from agricultural production as well as the amount of Montana gross income.

(8) A current county farm and ranch reporting form that reflects any livestock or personal property used on the land must have been filed by the current landowner with the local department office.

AUTH: 15-1-201, MCA

IMP: 15-7-201, 15-7-202, 15-7-203, 15-7-206, 15-7-207, 15-7-208, 15-7-209, 15-7-210, 15-7-212, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule II to reduce confusion regarding the qualifications for agricultural land classification. The department proposes striking similar language from other agricultural rules and including it in this proposed rule to locate the information together in a single rule.

NEW RULE III SPECIALTY AND UNIQUE CROPS (1) An applicant applying for agricultural land classification must prove that the land indicated in the application actually produced an agricultural crop as defined in 15-1-101, MCA, and that the crop produced \$1,500 in annual agricultural income based on parcel size as set forth in ARM 42.20.620. The agricultural land, indicated in the application, must actually produce the crop(s).

(2) Poultry or game birds must be raised in an unconfined area receiving their general dietary requirements from the land. Game birds raised in a building, cage, or enclosed area, are considered activities that are not supported and produced by the land. Land used for poultry and game birds raised in this manner are not eligible for consideration as agricultural land.

(3) The sale of honey and other products from bees will be considered agricultural income. For valuation as agricultural land, the owner of the land must provide proof that:

(a) the landowner is registered with the Montana Department of Agriculture as a landowner apiary; and

(b) the apiary must have at least 25 bee colonies annually sited on the land continually from May 1 through August 31.

(4) The sale of biological control insects will be considered agricultural income if the insects are supported solely from noxious weeds grown on the land indicated on the application.

(5) A garden or produce farm must grow plants or nursery stock in the ground to be considered agriculture if the provisions of (6) are met. Plants not grown in or nourished by the land are not considered agricultural production and the income generated by those plants is not considered agricultural income for the purposes of this rule. Examples of ineligible plants include, but are not limited to, trees grown in self-contained pots or burlap bags placed in or on the ground and plants grown in flats located in a greenhouse.

(6) For valuation as agricultural land, the owner of land used as a garden or produce farm must provide proof that the garden or produce farm:

(a) consists of a minimum of 1 acre;

(b) is cultivated for weeds and grass; and

(c) is managed according to accepted husbandry practices, including necessary fencing and a watering system.

(7) The sale of Christmas trees will be considered agricultural income if the provisions of (8) are met. Provisional agricultural classification will be granted for 5 years during the startup to allow time for the initial crop of trees to reach salable maturity.

(8) For valuation as agricultural land, the owner of land must provide proof that:

(a) all trees are cultivated under accepted, proven husbandry practices;

(b) all trees are sheared on a regular basis; and

(c) the property contains a minimum of 2,000 trees.

(9) Following the fifth year of provisional classification, the property owner must submit an application for agricultural classification.

(10) The property owner must include with the application documentation sufficient to prove that:

(a) the property continues to meet the requirements of (8); and

(b) the property produces at least \$1,500 in gross annual income.

(11) A fruit tree orchard will be considered agriculture if the provisions of (12) are met. Provisional agricultural classification will be granted for 5 years during the startup to allow time for the initial crop of trees to reach salable maturity.

(12) For valuation as agricultural land, the owner of land must provide proof that:

- (a) the orchard consists of contiguous parcels of land totaling not less than 1 acre;
- (b) the orchard contains a minimum of 100 live fruit trees; and
- (c) the orchard is maintained using accepted fruit tree husbandry practices including fencing and a watering system.

(13) Following the fifth year of provisional classification, the property owner must submit an application for agricultural classification.

(14) The property owner must include with the application documentation sufficient to prove that:

- (a) the property continues to meet the requirements of (12); and
- (b) the orchard produces at least \$1,500 in gross annual income once the trees reach production maturity.

(15) A vineyard shall be considered agriculture if the provisions of (16) are met. Provisional agricultural classification will be granted for 5 years during the startup to allow time for the initial crop of vines to reach salable maturity.

(16) For valuation as agricultural land, the owner of land must prove that:

- (a) the vineyard consists of contiguous parcels of land totaling not less than 1 acre;
- (b) the vineyard contains a minimum of 120 live vines;
- (c) the vineyard is maintained for weeds and grass;
- (d) all vines are pruned; and
- (e) the vineyard is maintained with accepted husbandry practices, including trellising and staking.

(17) Following the fifth year of provisional classification, the property owner must submit an application for agricultural classification.

(18) The property owner must include with the application documentation sufficient to prove that the property continues to meet the requirements of (16).

(19) Land qualifying under this rule is valued at the highest productivity level of nonirrigated continuously cropped farm land as established by the department.

AUTH: 15-1-201, MCA

IMP: 15-7-201, 15-7-202, 15-7-203, 15-7-206, 15-7-207, 15-7-208, 15-7-209, 15-7-210, 15-7-212, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule III to reduce confusion regarding the qualifications for agricultural land classification for specialty and unique crops. The department proposes striking similar language from other agricultural rules and including it in this proposed rule to locate the information together in a single rule.

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.20.102 APPLICATIONS FOR PROPERTY TAX EXEMPTIONS (1) through (9) remain the same.

(10) For real property exemption applications submitting use for parks and recreational facilities, the following documents must accompany the applications:

(a) documentation verifying the park and/or recreational facility is open to the general public; or

(b) if a federally recognized tribe, a tribal resolution identifying the fee land to be used exclusively for parks and recreational facilities, by legal description, language stating the type of exemption the tribe is requesting, and language stating how the property qualifies for this type of exemption, not to exceed ~~15~~ 640 acres.

(11) and (12) remain the same.

AUTH: 15-1-201, 15-6-230, MCA

IMP: 7-8-2307, 15-6-201, 15-6-203, 15-6-209, 15-6-211, 15-6-216, 15-6-221, 15-6-230, 15-7-102, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.102 to implement Senate Bill 231, L. 2013, which amended the 15-acre limitation to 640 acres for federally recognized tribes applying for a parks and recreational facilities exemption.

42.20.106 DEFINITIONS The following definitions apply to this subchapter:

(1) through (5)(a)(xiii) remain the same.

~~(iv)~~(xiv) manufactured homes are comparable to other manufactured homes.

(6) through (16) remain the same.

(17) "Property type" is the general description of each parcel's present use.

(17) through (21) remain the same, but are renumbered (18) through (22).

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-6-101, 15-7-111, 15-7-112, 15-7-304, 15-7-306, 15-9-101, 15-24-1501, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.106 to correct a numbering error in (5) and to define the term "property type" because it is commonly used in this subchapter.

42.20.118 TRIBAL GOVERNMENT'S GOVERNMENT APPLICATION FOR A TEMPORARY PROPERTY TAX EXEMPTION (1) remains the same.

(2) The tribe must file for a property tax exemption on a form available from the local department office in the county in which the tribal fee land is located on or before March 1 of the year for which the exemption is sought ~~or within 30 days after receiving an assessment notice, whichever is later, or in the case of newly acquired land, within 30 days of receiving the initial assessment notice.~~ A tribe with tribal fee lands located in more than one county must file an application for a property tax exemption in each county. Applications postmarked after March 1, will be considered for the following tax year. ~~For tax year 2012 only, the filing deadline is June 4.~~ All applications postmarked after that date will be considered for the following year.

(3) through (9) remain the same.

AUTH: 15-1-201, 15-6-230, MCA

IMP: 15-6-230, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.118 to correct an inequitable situation that exists in the current language in the rule relative to applying for property tax exemptions in general. Section 15-8-201, MCA, requires the department to assess all property to the person by whom it was owned, claimed, or in possession of on January 1. Taxpayers may file for an exemption of their property taxes within 30 days after the date on their assessment notices.

When a property transfer occurs very early in the calendar year, the department typically has time to record the ownership transfer prior to processing that year's property assessment notices. For acquisitions occurring closer to the department's assessment notice processing time, the opportunity to update the record of transfer ahead of the assessment notice mailing does not exist.

In those instances, the owners of the property acquired later do not have the same opportunity to file for an exemption that the owners of property acquired earlier in the year do, and instead must wait to file for an exemption in the following tax year. This creates a situation where not all property owners who acquire property after January 1 in a given year are receiving similar treatment. Therefore, the department proposes to remove the 30-day language in (2) that has previously allowed for this inequity to occur.

The department further proposes striking an outdated reference to the 2012 tax year in (2), because it is no longer relevant or necessary in the rule, and making a grammatical correction in the title.

The proposed amendments will make the language in this rule consistent with ARM 42.20.102, as amended in 2013. The department has considered the guiding principles set forth in 2-15-142, MCA, in amending this rule.

42.20.156 AGRICULTURAL AND FOREST LAND USE CHANGE CRITERIA

(1) The department ~~shall~~ will change the classification and valuation of land from class three, as defined in 15-6-133, MCA, or class ten, as defined in 15-6-143, MCA, to class four, as defined in 15-6-134, MCA, when any of the following criteria are met:

~~(a) the land contains covenants or other restrictions that prohibit agricultural use or the cutting of timber, other than that required as part of a timber management plan or a conservation easement;~~

(b) and (c) remain the same, but are renumbered (a) and (b).

~~(d) the land is part of a platted and filed subdivision, and~~

(c) the land contains three or more of the following physical site improvements:

(i) through (3) remain the same.

AUTH: 15-1-201, 15-7-111, 15-44-105, MCA

IMP: 15-1-101, 15-6-133, 15-7-103, 15-7-111, 15-7-202, 15-7-206, 15-7-207, 15-7-210, 15-44-102, 15-44-103, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.156 to comply with a recent Supreme Court decision. Agricultural land may be a recorded and filed platted subdivision but it may still be used for agricultural purposes. The department is removing the language referring to a platted and filed subdivision.

42.20.173 STATUTORY DEADLINE FOR ASSESSMENT REVIEWS

(1) For the current reappraisal cycle, tax years ~~2009-2014~~ 2015-2020, the department will accept requests for informal assessment reviews (Form AB-26) for classes three, four, and ten. The owner of any land and/or improvements who had not previously submitted a request for an informal review of their ~~2009~~ 2015 assessment notice and who is dissatisfied with the valuation may request an informal review of the assessment notice by submitting a request for informal review form (Form AB-26) to the local ~~Department of Revenue~~ department office in the county in which the property is located, on or before the first Monday in June of the current tax year, or within 30 days ~~of the receipt of an~~ after the date on the assessment notice to be considered for the current tax year.

(2) For taxpayers who do not file on or before the first Monday in June of the current tax year, or within 30 days ~~of receipt of an~~ after the date on the assessment notice, the informal review will be considered for the following year.

(3) and (4) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-7-102, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.173 to update the years for the upcoming reappraisal cycle, and to better define and administer the 30-day timeline set out in 15-7-102, MCA.

42.20.302 DEFINITIONS The following definitions apply to this subchapter:

(1) "Has a separate and independent value for such other purposes" means the land has a demonstrated capacity for recreation, commercial, industrial, or agricultural/timber use. That capacity is demonstrated by one of the following criteria:

(a) the filing of a certificate of survey that creates a division of the mining claim;

(b) the growth of agricultural commodities on the mining claim;

(c) the construction of a recreational or residential structure such as a summer home or commercial structure ~~within one mile of~~ on the mining claim; or

~~(d) the construction of a commercial structure or the operation of a commercial operation such as a hunting guide or outfitter within one mile of the mining claim; or~~

~~(e)~~(d) the lease of any portion of the surface area for a recreational, commercial, residential, industrial, or agricultural use.

~~(f)(e)~~ The requirements of ~~(4)(c)~~ and ~~(d)~~ may be waived when the topography of the property is so severe that it precludes development for any purpose other than mining.

(2) through (6) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-6-101, 15-6-133, 15-8-111, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.302 to strike the language dealing with the construction of a structure within one mile of a mining claim because the one mile language is arbitrary, leads to the inequitable treatment of landowners, and is difficult to defend.

42.20.454 CONSIDERATION OF SALES PRICE AS AN INDICATION OF MARKET VALUE (1) When considering any objection to the appraisal of property, the department may consider the actual selling price of the property as evidence of the market value of the property. For the actual selling price to be considered, a taxpayer or the taxpayer's agent must ~~meet the following requirements:~~

~~(a) make application on a property adjustment form (AB-26) submit a completed Request for Informal Review (Form AB-26) to the local department office in the county where the property is situated, on or before the first Monday in June or within 30 days after the date on the assessment notice;~~

~~(b) the property adjustment form (AB-26) must be filed within 30 days after receipt of a valuation notice or before the first Monday in June, whichever is later;~~

~~(c) the sale must be substantiated by~~

~~(b) submit an accurately completed and filed RTG Realty Transfer Certificate;~~

~~(d)(c) complete and sign a sales verification form including that includes the sales price of the property;~~

~~(e)(d) provide a signed affidavit completed by at least one party or person who is not a participating party (buyer or seller) in the transaction the buyer or seller and that identifies the conditions, terms, and sale price of the property;~~

~~(f)(e) provide an executed buy/sell agreement as supporting documentation; and~~

~~(g)(f) provide evidence of two comparable sales of similar property in the same general geographic area to where the taxpayer's property is situated. The property sales must have occurred within six months of the valuation date adopted by the department in its reappraisal plan administrative rules, as set forth in ARM Title 42, chapter 18. The department will:~~

~~(i) use its sales records to identify the sale prices and determine if the sales were valid, arm's-length sales. Taxpayers will be permitted; and~~

~~(ii) permit taxpayers to examine the sales information for the comparable property if they agree to keep the information confidential; and~~

~~(h) the actual selling price of the property and the comparable sales must be adjusted by the department to a value that is consistent with the base year adopted by the department in its administrative rules, ARM Title 42, chapter 18.~~

(2) For the actual selling price of the property to be considered, the department must:

(a) analyze and maintain the information and requirements in (1)(a) through ~~(h)(f)~~ as a part of the file supporting the value placed on the property for tax purposes;

(b) verify the subject sale ~~as is~~ a valid arm's-length transaction as defined in 15-8-111, MCA;

(c) verify the comparable sales ~~as are~~ valid arm's-length transactions as defined in 15-8-111, MCA; and

(d) adjust the actual selling price of the property to a value that is consistent with the base year adopted by the department in its administrative rules, ARM Title 42, chapter 18; and

~~(d)(e)~~ adjust the sale sales price of the property to account for changes in market conditions that may have occurred between the time of sale and the base year valuation date.

(3) After making a determination regarding use of the adjusted selling price as an indication of market value for tax purposes, the department ~~must~~ shall return the ~~form (AB-26)~~ Form AB-26 to the taxpayer stating clearly the reasons for accepting or rejecting the application and, if appropriate, what adjustments were made to the actual selling price and why ~~these~~ the adjustments were made.

(a) and (4) remain the same, but are renumbered (4) and (5).

AUTH: 15-1-201, MCA

IMP: 15-7-102, 15-7-111, 15-8-111, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.454 as a matter of housekeeping to set out the proper name for the Form AB-26 and to change the reference to the term "valuation" to the term "assessment" for clarity in the rule. The term "assessment" is both on the form and used in current practice by the department. The department further proposes amending and restructuring (1)(g) and (h) for improved readability and to clarify that the department will consider the sale of a taxpayer's property provided the sale occurred within 6 months of the department's valuation date. The sections, as proposed to be amended, will become (1)(f).

42.20.455 CONSIDERATION OF INDEPENDENT APPRAISALS AS AN INDICATION OF MARKET VALUE (1) through (1)(b) remain the same.

(c) submit a ~~property adjustment form (AB-26)~~ Request for Informal Review (Form AB-26) and the original long-form narrative appraisal, to the local department office in the county where the property is situated; and

~~(d) file the property adjustment form (AB-26) and the original long-form narrative appraisal on or before the first Monday in June or within 30 days after receipt of a valuation the date on the assessment notice or before the first Monday in June, whichever is later.~~

(2) For the independent appraisal to be considered, the department must:

(a) maintain the information and requirements in (1)(a) through ~~(d)(c)~~ as a part of the file supporting the value placed on the property for tax purposes;

(b) through (4) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-7-102, 15-7-111, 15-8-111, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.455 as a matter of housekeeping to set out the proper name for the Form AB-26 and to change the reference to the term "valuation" to the term "assessment" for clarity in the rule. The term "assessment" is both on the Form AB-26 and used in current practice by the department.

42.20.501 DEFINITIONS The following definitions apply to this subchapter:

(1) "~~2002~~ 2014 tax year value" means the market value of a property which appears on the ~~2002~~ 2014 property tax record of that property.

(2) through (16) remain the same.

(17) "Neighborhood (NBHD) group percentage" means the percent of change in value from the total ~~2002~~ 2014 tax year value of the year before reappraisal to the total ~~2003~~ 2015 reappraisal value, excluding properties with new construction, for those homogeneous areas within each county or between counties that have been defined as a neighborhood group. The neighborhood group percentage is determined by using the following formula:

$$\text{Neighborhood Group Percentage} = \frac{(\text{Total 2003 NBHD REAP Value} - \text{Total } \del{2002} \text{ 2014 NBHD Tax Year Value})}{\text{Total } \del{2002} \text{ 2014 NBHD Tax Year Value}}$$

(a) through (19) remain the same.

(20) "Phase-in percentage" for tax years ~~2003~~ 2015 through ~~2008~~ 2020 is 16.6% percent per year. The phase-in percentage accumulates annually.

(21) remains the same.

(22) "Reappraisal (REAP) value" means the full ~~2003~~ 2015 value determined for the current reappraisal cycle pursuant to 15-7-111, MCA, adjusted annually for new construction or destruction. The ~~2003~~ 2015 reappraisal value reflects a market value of the property on January 1, ~~2002~~ 2014. A current year REAP value is the same as the ~~2003~~ 2015 reappraisal value of the property if there is no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes made to the property during ~~2003~~ 2015 or subsequent tax years.

(23) and (24) remain the same.

(25) "Value before reappraisal (VBR)" means the ~~2002~~ 2014 tax year value adjusted for any new construction or destruction that occurred in the prior year. The VBR for the ~~2003~~ 2015 tax year and subsequent years is the same as the ~~2002~~ 2014 tax year value if there is no new construction, destruction, land splits, land use changes, land reclassifications, ~~land productivity changes~~, improvement grade changes, or other changes made to the property during ~~2002~~ 2014 or subsequent tax years.

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-6-222, 15-7-111, 15-10-420, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.501 to update the years for the upcoming reappraisal cycle beginning in tax year 2015, and proposes making a format change in (20) as a matter of housekeeping.

42.20.502 DETERMINATION OF VALUE BEFORE REAPPRAISAL (VBR), EXCLUDING INDUSTRIAL PROPERTIES (1) and (2) remain the same.

(3) For class three property that contains a productivity ~~or grade change~~ only, the current year VBR will ~~be the prior year VBR of the prior grade~~ remain the same as the full appraisal value of the previous cycle.

(4) remains the same.

(5) Land which has been reclassified as residential or commercial land after January 1, ~~2002~~ 2014, will have the VBR determined by comparing other ~~2002~~ 2014 market values of similar residential or commercial land, and determining a comparable VBR for the new residential or commercial land.

(6) through (10) remain the same.

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-7-111, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.502 to remove references to the outdated term "grade" and replace it with the term "productivity" as used in current practice by the department to value class three agricultural land. The department is also updating the years for the upcoming reappraisal cycle beginning in tax year 2015.

42.20.503 DETERMINATION OF CURRENT YEAR PHASE-IN VALUE FOR CLASS THREE, CLASS FOUR, AND CLASS TEN PROPERTY (1) For tax years ~~2003~~ 2015 through ~~2008~~ 2020, the department is required to determine the current year phase-in value for each property in class three, class four, and class ten annually. The current year phase-in value is determined by subtracting the ~~2002~~ 2014 VBR reappraisal value from the ~~2003~~ 2015 reappraisal value multiplied by the applicable phase-in percentage, the product of which is added to the ~~2002~~ 2014 VBR reappraisal value. The calculations of the phase-in values are represented by the following formula:

~~2003~~ 2015 Phase-in value =

$$\begin{aligned} & [(\text{~~2003~~ 2015 full reappraisal value} - \text{~~2002~~ VBR 2014 full reappraisal value}) \times \\ & 16.66\%] \\ & + \text{~~2002~~ VBR 2014 full reappraisal value} \end{aligned}$$

~~2004~~ 2016 Phase-in value =

$$\begin{aligned} & [(\text{~~2003~~ 2015 full reappraisal value} - \text{~~2002~~ VBR 2014 full reappraisal value}) \times \\ & 33.32\%] \\ & + \text{~~2002~~ VBR 2014 full reappraisal value} \end{aligned}$$

2005 2017 Phase-in value =
[(~~2003~~ 2015 full reappraisal value - ~~2002~~ VBR 2014 full reappraisal value) x
49.98%]
+ ~~2002~~ VBR 2014 full reappraisal value

2006 2018 Phase-in value =
[(~~2003~~ 2015 full reappraisal value - ~~2002~~ VBR 2014 full reappraisal value) x
66.64%]
+ ~~2002~~ VBR 2014 full reappraisal value

2007 2019 Phase-in value =
[(~~2003~~ 2015 full reappraisal value - ~~2002~~ VBR 2014 full reappraisal value) x
83.30%]
+ ~~2002~~ VBR 2014 full reappraisal value

2008 2020 Phase-in value =
2003 2015 full reappraisal value

AUTH: 15-1-201, 15-7-111, MCA
IMP: 15-7-111, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.503 to reflect the 2015 reappraisal dates and to reformat the formula section.

42.20.504 NEW CONSTRUCTION DETERMINATION (1) The following criteria will be used to identify new construction and destruction:

- (a) all residential or commercial structures, out-buildings, and mobile homes that were built, remodeled, or destroyed in the preceding year;
- (b) properties with new, attached garages built in the preceding year;
- (c) properties which had any land reclassification or land use changes; ~~or~~
- (d) properties with out-buildings built in the preceding year; or
- (e) properties with a physical change to the improvements.

(2) The following will not be considered new construction or destruction:

- (a) properties with square footage changes due to correction of measurements or sketch vectoring, or due to coding corrections for story heights, such as story with full finished attic to 1.5 stories;
- (b) properties with improvement grade changes;
- (c) properties with condition, desirability, and usefulness (CDU rating) changes;
- (d) properties with changes in heat or air conditioning; or
- (e) ~~residential dwelling units with changes in square footage of living area of 100 square feet or less;~~
- (f)(e) properties with changes in effective year; ~~or~~
- (g) ~~properties with changes in finished basement areas.~~

AUTH: 15-1-201, 15-7-111, MCA
IMP: 15-7-111, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.504(1) to include "physical" changes as a means of identifying new construction or destruction, and striking the square footage language in (2) to specify all valuation changes and not only square footage changes. The department also proposes striking the reference to finished basement areas because changes in finished basement areas may be considered new construction or destruction.

42.20.509 DETERMINATION OF VALUE BEFORE REAPPRAISAL (VBR) FOR INDUSTRIAL PROPERTIES (CLASS FOUR) (1) remains the same.

(2) The reappraisal value of new construction will be trended back to a VBR. The trend used to arrive at the VBR ~~shall~~ will be calculated using cost indices from "Marshall Valuation Service." The trend used ~~shall~~ will be called the new construction trend factor. The new construction trend factor for industrial properties is .84. The VBR will be adjusted to reflect the new construction as if it were in place in ~~2002~~ 2014. The same method will be used in subsequent tax years.

For purposes of illustration, assume the following:

Reappraisal New Construction Value	=	\$100,000
New Construction Trend Factor	=	.84

(a) Given these assigned values, the trend factor is applied as follows:

New construction VBR =
REAP new construction value x new construction trend factor

Example: \$84,000 = \$100,000 x .84

(3) Property destroyed after January 1, ~~2002~~ 2014, will be removed from the VBR of the industrial site. The destroyed property also will be deducted from the reappraised value at its reappraised cost.

(4) Land which has been reclassified as industrial land after January 1, ~~2002~~ 2014, will have the VBR determined by comparing other ~~2002~~ 2014 market values of similar industrial land, and determining a comparable VBR for the new industrial land.

AUTH: 15-1-201, 15-7-111, MCA
IMP: 15-7-111, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.509 to update the dates for the upcoming 2015 reappraisal cycle and to make grammatical changes.

42.20.515 DETERMINATION OF TOTAL TAXABLE VALUE OF NEWLY TAXABLE PROPERTY (1) ~~For the 2009 tax year and subsequent tax years, the~~
The department will calculate the value attributable to newly taxable property that is

classified as class four, five, seven, eight, nine, twelve, thirteen, fourteen, fifteen, and sixteen for each taxing jurisdiction the total taxable value of class four newly taxable property as follows annually.

(2) For the 2014 tax year and subsequent years, the department will calculate the taxable value attributable to newly taxable property in each of the classes of property listed in (1) for each taxing jurisdiction as follows:

(a) For tax years 2009 and subsequent years, the department shall determine the market value of class four newly taxable property in a taxing jurisdiction. Class four newly taxable property in a taxing jurisdiction will include the total market value of class four property for any tax increment financing district which has been dissolved or terminated. The value attributable to newly taxable property will be calculated by subtracting the prior year adjusted taxable value from the current year adjusted taxable value to determine the total value of newly taxable property in a jurisdiction by tax class.

(b) The current year total market value is determined by valuing each current year parcel with the current cycle valuation schedules and models. These values for current year parcels are then added together to arrive at the current year total market value. The previous year total market value is determined by valuing each previous year parcel with the current cycle valuation schedules and models. These values for previous year parcels are then added together to arrive at the previous year total market value. The difference between the current year total market value and the previous year total market value is the total market value of class four newly taxable property and prior year adjusted taxable values will be calculated by adjusting the current and prior year taxable values by an effective rate. The effective rate will be calculated from the current year taxable value and the current year market value, with the exception of class four, which will use the current year taxable value and the current year phase-in value to reduce the impact that a change in phase-in value has on the effective rate.

(c) The newly taxable property value for class four property for the current tax current year adjusted taxable value is determined will be calculated by multiplying the current year total class four market value by the appropriate current year exemption percentage and the current year class four tax effective rate determined in (b).

(d) The prior year adjusted taxable value will be calculated by multiplying the prior year market value by the effective rate determined in (b).

(2) For tax year 2009 and subsequent tax years, the department will calculate for each taxing jurisdiction the total taxable value of newly taxable property that is classified as class five, seven, eight, nine, twelve, thirteen, fourteen, fifteen, and sixteen property. The taxable value of newly taxable property of class five, seven, eight, nine, twelve, thirteen, fourteen, fifteen, and sixteen property shall be determined as follows:

(a) The department shall determine the total market value of newly taxable property in a taxing jurisdiction. The total market value of newly taxable property is calculated as the difference between the current year total market value for each class of property and the previous year total market value of the same class of property.

~~(b) For each class of property, the total taxable value of newly taxable property for the current tax year is determined by multiplying the current year total market value of newly taxable property by the current year tax rate for that class of property.~~

~~(3) The total taxable value of newly taxable class three and class ten property shall be determined in the same manner as set forth in (2) to the extent that land is transferred into a taxing jurisdiction (e.g., a change from exempt status to taxable status) and identified as newly taxable property. For jurisdictions in which land transfers have not been specifically identified, a value for newly taxable class three and ten property will not be calculated.~~

~~(4)(3) The total taxable value of attributable to all of the newly taxable property in a taxing jurisdiction shall be determined by adding together the separate taxable values as determined above for class three, four, five, seven, eight, nine, ten, twelve, thirteen, fourteen, fifteen, and sixteen property for that taxing jurisdiction will be calculated by summing the taxable value attributable to newly taxable property in all classes of property listed in (1).~~

~~(5)(4) If the newly taxable value, as calculated according to (1) through (4) (2) and (3), for any class of property in any taxing jurisdiction is less than zero, then the newly taxable value for that class of property in that taxing jurisdiction is zero.~~

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-10-420, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.515 to more accurately explain how the amount of value that is attributed to newly taxable property is calculated. The changes are being proposed to simplify and make the calculation easier to understand and to restructure the rule for ease of readability.

The proposed amendments include relocating the list of tax classes that the amount of newly taxable value will be calculated for from (4) to (1), and setting forth the calculation of newly taxable property for those classes together in new (2).

As proposed, new (2) describes the calculation for each class of property utilizing an effective rate to determine the amount of value attributable to newly taxable property and describes how the effective rate is calculated. The existing language in the rule states that the difference in market value between the current and prior year will be multiplied by the current year tax rate to determine the amount of newly taxable value and the department proposes changing this to an effective rate to decrease the impacts that changes in exemptions, tax rates, and phase-in values have on the taxable value.

The department further proposes striking (3) and renumbering the remaining sections as part of the overall simplification of the rule.

42.20.601 DEFINITIONS The following definitions apply to this subchapter:

(1) remains the same.

(2) "Agricultural products produced by the land" means crops or forage ~~used to support livestock are grown~~ raised directly in the land's soil and used to support livestock. "Agricultural products produced by the land" does not mean land that is

used as a "platform" for agricultural activities. Examples of agricultural activities that do not meet the definition "agricultural products produced by the land" are the feeding of livestock from external sources that allow stocking rates to exceed the carrying capacity or crops produced in potted soil that are not grown directly in the land's soil.

(3) "Ancillary improvements" means improvements necessary for the production and storage of raw agricultural commodities. These improvements do not include improvements that are used to process, treat, or package raw agricultural commodities into a value-added product, or improvements designed to accommodate and serve the public.

~~(3)~~(4) "Animal unit" means a cow/calf pair, including a mature cow of approximately ~~1,000~~ 1,200 pounds and a calf as old as ~~six~~ 6 months, or their equivalent.

(4) and (5) remain the same, but are renumbered (5) and (6).

~~(6)~~(7) "Bona fide agricultural operation" means an agricultural enterprise in which the land actually produces agricultural crops defined in 15-1-101, MCA, that directly contribute agricultural income to a functional agricultural business, consisting of contiguous parcels totaling not less than 1 acre, excluding the 1-acre site beneath a residence.

(7) through (12) remain the same, but are renumbered (8) through (13).

~~(13) "Effectively prohibit" means the land has limitations that prevent agricultural use of the land in its entirety. If the covenants or other restrictions prohibit all farming and grazing activities the land is effectively prohibited from agricultural use.~~

(14) remains the same.

(15) "Income from agricultural production" means the gross amount of income received from the sale of food, feed, fiber commodities, livestock, poultry, bees, biological control insects, fruits, vegetables, and also includes sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes, income from farm rental, the sale of draft, breeding, dairy, or sporting livestock, the share of partnership or family corporation gross income received from a farming or ranching business entity, or the taxpayer's share of distributable income from an estate or trust involved in an agricultural business. When the income from agricultural production is used to qualify land for agricultural classification, it must be reportable income for income tax purposes.

(a) Wages received as a farm employee or wages received from a farm corporation are not gross income from farming.

(b) A bona fide agricultural operation may combine the income of more than one parcel to meet the income requirements. The parcels must be dependent upon each other in the agricultural operation as a whole. For example, one parcel may be used to grow hay, which is fed to livestock raised on a different parcel.

(16) "Land use" means land placed into a certain type of service or utilization, such as the agricultural uses described in ARM 42.20.660 through 42.20.680.

(17) and (18) remain the same.

(19) "Native grazing land" means all lands devoted to the production of forage from native or naturalized plants that are ~~part of the original flora of an area that are~~ harvested directly by grazing animals.

(20) through (24) remain the same.

(25) "Pertinent" means scientific, verifiable information relating directly to a specific geographical area that could affect the productive capacity of the land.

(25) through (28) remain the same, but are renumbered (26) through (29).

(30) "Residential" means land used for the purpose of family housing.

(31) "Residential use only" means land that allows buildings for the purpose of family housing and restricts commercial or industrial buildings.

(32) "Site-specific" means data associated within a defined geographic area, usually composed of similarly situated parcels of land characterized by reoccurring patterns of soils, geology, climate, water resources, and land use. Site-specific data may refer to one continuous area or several separate nearby areas. Site-specific data rarely references an individual ownership or an individual parcel of land.

(29) and (30) remain the same, but are renumbered (33) and (34).

AUTH: 15-7-111, MCA

IMP: 15-1-101, 15-6-133, 15-7-201, 15-7-202, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.601 to update the definitions for the terms used in the subchapter.

The department proposes adding a definition for "ancillary improvements" as it is used in a bona fide agricultural operation; amending the definition of "animal unit" to increase the weight from 1,000 to 1,200 pounds, to implement House Bill 132, L. 2011; clarifying the income requirements for an agricultural operation; more clearly defining "bona fide agricultural operation" and "native grazing land"; and striking the definition of the term "effectively prohibit" and adding definitions for the terms "residential" and "residential use only," due to a recent Montana Supreme Court decision.

The department further proposes adding definitions for "pertinent" and "site specific" to the rule by recommendation from the Agricultural Land Advisory Committee, to implement House Bill 132, L. 2011, which required the committee to define those terms.

42.20.603 STEPS NECESSARY TO VALUE VALUATION OF AGRICULTURAL LAND THAT DOES NOT HAVE A PUBLISHED SOIL SURVEY

(1) Denied access (DA) lands and not completed (NOTCOM) lands do not currently have any agricultural use productivity information associated with them from a published soil survey.

~~(a)~~(2) When ~~denied access~~ DA and NOTCOM lands are encountered in the department's efforts to assign a productivity to an agricultural use, the department will use Geographic Information System (GIS) technology to determine the highest average level of productivity in the same agricultural use from the surrounding soils within one mile of the DA or NOTCOM land and will assign the highest average level of productivity to the ~~denied access~~ DA lands.

~~(b)~~(3) Where an inadequate number of acres within the same use class with productivity information are not identified in the one-mile buffer routine, the buffer routine is expanded to include all acres with the same use and productivity information within five miles of the ~~DA~~ property. On occasion the buffer routine is

expanded to 20 miles to ensure that an adequate number of acres with soils productivity information and in the same use are identified.

~~(c) When the owner of the land makes arrangements with the Natural Resource Conservation Service (NRCS) and provides written proof to the department that an arrangement has been made to have a soil survey conducted on their lands, the department will use GIS technology to determine the average level of productivity in the same agricultural use from the surrounding soils within one mile of the denied access land and will assign the average level of productivity to the denied access lands.~~

~~(d) Upon completion of the soil survey by the NRCS the department will apply the productivity of the soil to the agricultural use as indicated in the published soil survey.~~

~~(e) When the department receives the information in (b) or (c) above within 30 days of receipt of the assessment or the 1st Monday in June, the department will make the adjustments for the current tax year. If the information is received after that date, it will be adjusted for the following tax year.~~

~~(2) Not completed (NOTCOM) lands do not have any agricultural use productivity information associated with them from a published soil survey.~~

~~(a) When NOTCOM lands are encountered in the department's efforts to assign a productivity to an agricultural use, the department will use GIS technology to determine the average level of productivity in the same agricultural use from the surrounding soils within one mile of the NOTCOM land and will assign the average level of productivity to the NOTCOM lands.~~

~~(b) Where an inadequate number of acres within the same use class with productivity information are not identified in the one-mile buffer routine, the buffer routine is expanded to include all acres with the same use and productivity information within five miles of the NOTCOM property. On occasion the buffer routine is expanded to 20 miles to ensure that an adequate number of acres with soils productivity information and in the same use are identified.~~

~~(c) Upon completion and publication of the soil survey by the NRCS the department will apply the productivity of the soil to the agricultural use as indicated by the published soil survey.~~

AUTH: 15-7-111, MCA

IMP: 15-7-201, 15-7-202, 15-7-208, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.603 to add a reference to not completed (NOTCOM) land. Lands are considered to be NOTCOM if the USDA Natural Resource Conservation Service (NRCS) has not completed a soil survey on the land. Denied access (DA) lands are lands where the NRCS was unable to complete a soil survey because the landowner was either unavailable or denied access to the land to conduct the survey. In the absence of the information from a soil survey to provide otherwise, the department has assigned highest productivity value to these lands.

The department proposes amending the rule to change the productive value assigned to the DA and NOTCOM lands from the "highest" productivity level to the "average" productivity level, and further proposes striking the language in the rule

that sets forth the landowner requirements for receiving the "average" productivity level, because they will no longer be necessary. The department further proposes renumbering the remaining language in the rule.

42.20.604 STEPS IN DETERMINING THE PRODUCTIVITY OF AGRICULTURAL LAND (1) Productivity is determined using the Natural Resource Conservation Service (NRCS) soil surveys. The productivity determination is specific to the agricultural land use classification under average typical management practices.

(2) Productivity is adjusted to reflect, as near as possible, average typical management practices for an area using the following procedures:

(a) for lands whose productivity is based on bushels of spring wheat per acre, the soil survey productivity in the following counties is adjusted ~~to reflect the 12-year countywide average spring wheat production as reported by Montana Agricultural Statistical Services on a regional basis by multiplying the soil survey productivity by the regional adjustment.~~ The county designations and regional adjustments are as follows:

(i) Region 1: Beaverhead, Deer Lodge, Flathead, Gallatin, Granite, Jefferson, Lake, Lincoln, Madison, Mineral, Missoula, Powell, Ravalli, Sanders, and Silver Bow is 0.86;

(ii) Region 2: Big Horn, Blaine, Broadwater, Carbon, Carter, Cascade, Chouteau, Custer, Fallon, Fergus, Garfield, Glacier, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Teton, Toole, Treasure, Wheatland, and Yellowstone is 0.77; and

(iii) Region 3: Dawson, Daniels, McCone, Richland, Roosevelt, Sheridan, Valley, and Wibaux is 0.70;

(b) for irrigated lands, the soil survey productivity for tons of irrigated alfalfa hay per acre is adjusted on a county-by-county basis ~~to reflect producer responses received during the 2008-2009 map mailing process and information obtained from irrigation districts. Since the soil survey productivity is based on a full application of water, the adjustment is made based on the amount of water the producer is actually able to apply on a regular basis; and;~~

(c) for grazing land, the ~~midpoint of production for the amount of air-dry herbage grown between in "unfavorable" precipitation condition years and "normal" precipitation years~~ is used to determine the land's productivity in animal unit months based on the requirements to sustain a 1,200-pound animal unit;

(d) the department will use the following formula to calculate the carrying capacity for nonirrigated native grazing land:

(i) per-acre per-year dry herbage production multiplied by 0.25 equals the per-acre per-year dry herbage production consumed by livestock;

(ii) per-acre per-year dry herbage production consumed by livestock divided by 1,098 pounds of dry herbage production consumed per-month per-animal unit equals the animal unit months per acre (AUMs/acre); and

(iii) livestock acres grazed multiplied by AUMs/acre equals the total AUMs;
and

(e) for nonirrigated hay land, the production of the amount of air-dry herbage grown between "unfavorable" condition years and "normal" condition years divided by 2,000 is used to determine the land's productivity in tons per acre.

AUTH: 15-7-111, MCA

IMP: 15-7-201, 15-7-202, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.604, in accordance with the Agricultural Land Advisory Committee's recommendations. Section (1) is proposed to be amended to make a grammatical change and (2) is proposed to be amended to provide a list of the counties by region and to include the adjustment percentage for each region, and to incorporate the formula for calculating the carrying capacity for nonirrigated native grazing land. Section (2) is further proposed to be updated to implement House Bill 132, L. 2011, which amended the weight of the animal unit from 1,000 pounds to 1,200 pounds.

42.20.606 EXCEPTIONS TO AGRICULTURAL LAND ASSESSMENT

(1) The following land ~~shall~~ will not be classified and assessed as agricultural land:

(a) land that is used for residential, commercial, or industrial purposes;
(b) ~~land that has covenants or other restrictions that effectively prohibit agricultural use;~~

(c) and (d) remain the same, but are renumbered (b) and (c).

(2) remains the same.

AUTH: 15-1-201, MCA

IMP: 15-6-133, 15-6-134, 15-7-201, 15-7-202, 15-44-101, 15-44-102, 15-44-103, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.606 to strike the language in (1)(b) to comply with a recent Supreme Court decision. The department will determine the classification of agricultural land based upon the use of the land and not upon covenants.

42.20.620 CRITERIA FOR AGRICULTURAL LAND VALUATION FOR LAND TOTALING LESS THAN 20 160 ACRES (1) Multiple parcels, consisting of less than 160 acres, both contiguous and noncontiguous, in the same ownership, actively devoted to agricultural use and part of a bona fide agricultural operation must meet all of the production and income qualification tests in these rules for classification as agricultural land.

(2) Noncontiguous parcels in the same ownership and actively devoted to agricultural use can combine agricultural production and/or livestock carrying capacity to meet eligibility requirements. Each noncontiguous parcel of land, less than 160 acres in size and not a part of a larger agricultural operation, must individually meet the agricultural eligibility criteria set forth in this rule.

(3) An applicant for agricultural land classification must prove that the land indicated in the application actually produced the livestock, poultry, honey and other

products from bees, biological control insects, field crops, fruit, or other animal and vegetable matter raised for food or fiber or sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes agricultural crops as defined in 15-1-101, MCA.

~~(2) Contiguous and noncontiguous parcels must be under one ownership and each parcel must be actively devoted to agricultural use and meet all of the production and income qualification tests in these rules to be classified as agricultural land. Noncontiguous parcels in the same ownership that are actively devoted to agricultural use can combine agricultural production and/or current livestock carrying capacity to meet the income or carrying capacity requirements.~~

~~(3)(4) A county farm and ranch personal property reporting form that reflects any lists the farm and ranch personal property and livestock or personal property used on the land must have been filed at some time must be completed by the current landowner with and be on file at the local department office.~~

~~(4)(5) Poultry or game birds that are raised in a building, confined cage or enclosed area, are considered activities that are not supported and produced by the land. Land used for poultry and game birds raised under these conditions is not eligible for consideration as agricultural land If agricultural products, other than livestock, are marketed from the land identified in the application, the applicant must provide proof that the parcel(s) indicated in the application produced at least \$1,500 gross agricultural income each year.~~

~~(5) The sale of honey and other products from bees shall be considered agricultural income if the applicant meets the following requirements:~~

~~(a) the landowner is registered with the Montana Department of Agriculture as an apiary; and~~

~~(b) the apiary must have at least 25 bee colonies annually sited on the land from May 1 through August 31.~~

~~(6) Income must be from agricultural products marketed by, or received by the owner, the owner's family members, or the owner's agent, employee, or lessee. Acceptable proof of income must include:~~

~~(a) sales receipts;~~

~~(b) cancelled checks;~~

~~(c) copies of income tax statements;~~

~~(d) other written evidence of sales transactions;~~

~~(e) annual rental or lease payments of at least \$1,500, provided there is demonstrated proof of agricultural activity on the land and the land is capable of sustaining that activity; or~~

~~(f) annual rental payments of at least \$1,500, made under the federal conservation reserve program (CRP), or a similar program that reimburses the landowner for removing the land from the current agricultural use and placing it in a different agricultural use.~~

~~(7) For parcels of land under 20 acres, (6)(e) and (f) are not considered eligible agricultural income for this rule.~~

~~(6) remains the same, but is renumbered (8).~~

~~(7) Plants or nursery stock not grown and nourished by the land are not acceptable forms of agricultural income or agricultural production for purposes of this rule. Examples include trees grown in self-contained pots or burlap bags placed in~~

or on the ground and plants grown in flats located in a greenhouse.

~~(8) If the land is used primarily to raise and market livestock, the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross income as determined by the Montana State University-Bozeman's Department of Agricultural Economics and Economics, with cattle as the base.~~

~~(a) Beef cows are owned to produce calves, usually one calf per year.~~

~~(b) The calf is the annual product produced from the grazing land via the beef cow.~~

~~(c) Calf prices have averaged approximately \$1.00 per pound. Weaning weights for calves are typically 500 pounds. The average revenue produced by one cow/calf pair is \$500. Three sold calves from three cow/calf pairs would generate \$1,500 in income.~~

~~(d) Based on a 10-month grazing season (typical), 30 AUM are required to generate \$1,500 (3 cow/calf pair X 10 months = 30 AUM).~~

~~(e) For the reappraisal cycle ending December 31, 2014, the Montana State University-Bozeman's Department of Agricultural Economics and Economics determined the minimum number of animal unit months of carrying capacity to be 30 animal unit months. For subsequent reappraisal cycles, the minimum number of animal unit months of carrying capacity needed to equate to \$1,500 in annual gross income for each cycle will be determined by the Montana State University-Bozeman's Department of Agricultural Economics and Economics for the base year for each cycle. The base year for each cycle will be established by administrative rule.~~

~~(f) One animal unit (AU) is assumed to consume 915 pounds of dry herbage production per month from native grazing land. The carrying capacity may be based on information obtained from the United States Natural Resource and Conservation Service (NRCS) soil survey. If a soil survey does not exist, the carrying capacity may be based on an estimate by the NRCS, the local county agricultural extension agent, or the department. Based on the manner in which the NRCS measures dry herbage production and the lost forage consumption due to grazing livestock and other causes, the per-acre per-year dry herbage production consumed is 25% of the NRCS estimate for the midpoint between the normal and unfavorable precipitation year estimates on nonirrigated grazing land. On nonirrigated domestic grazing land, the department shall increase the estimated nonirrigated native grazing land carrying capacity by 50% (1.5). The department shall use the following formula, based on NRCS soil survey information, to calculate the carrying capacity for nonirrigated native grazing land, which does not exhibit significant overgrazing or weed infestation:~~

~~(i) per-acre per-year dry herbage production multiplied by 0.25 equals the per-acre per-year dry herbage production consumed by livestock;~~

~~(ii) per-acre per-year dry herbage production consumed by livestock divided by 915 pounds of dry herbage production consumed per-month per-animal unit equals the animal unit months per acre (AUMs/acre); and~~

~~(iii) livestock acres grazed multiplied by AUMs/acre equals the total AUMs.~~

(9) ~~If agricultural products, other than livestock, are marketed from land in the application, the applicant must provide proof that the parcel(s) indicated in the application produced at least \$1,500 of gross agricultural income each year. Annual rental payments, government payments, or lease payments are not eligible agricultural income. Acceptable proof of income shall include:~~

- ~~(a) sales receipts;~~
- ~~(b) canceled checks;~~
- ~~(c) copy of income tax statements; or~~
- ~~(d) other written evidence of sales transactions~~

For grazing land, the land must be capable of sustaining a minimum carrying capacity expressed in animal unit months. The minimum animal unit months must equate to \$1,500 in annual gross income as determined by the Montana State University-Bozeman's Department of Agricultural Economics and Economics, with cattle as the base.

(a) For the reappraisal cycle ending December 31, 2020, the Montana State University-Bozeman's Department of Agricultural Economics and Economics determined the minimum number of animal unit months of carrying capacity to be 31 animal unit months.

(b) The department will use the NRCS soil survey information to calculate the carrying capacity for nonirrigated native grazing land.

(c) For nonirrigated domestic grazing land, the department shall increase the estimated nonirrigated native grazing land carrying capacity by 50 percent.

~~(10) If the land is primarily used to grow crops that are not marketed but consumed by humans, livestock, poultry, or other animals in the agricultural operation, the applicant must prove that the land on the application produced the equivalent of \$1,500 in gross agricultural income each year from crops that were consumed. The applicant must make a written estimate of the weight or quantity of food or animal fiber produced. The written estimate must include all proof set forth in this rule. The weight or quantity estimate will be multiplied by the current commodity price to determine whether the \$1,500 annual gross income test has been met~~ For land other than grazing land that is used primarily to raise crops for consumption by humans, livestock, poultry, or other animals in the agricultural operation rather than for market, the applicant must prove that the land on the application produced the annual equivalent of \$1,500 in gross agricultural income from these crops. Proof of income must include:

(a) a written estimate of the weight or quantity of food or other eligible agricultural product produced. The weight provided must be multiplied by the current commodity price to determine that the minimum annual gross income of \$1,500 was met; and

(b) if the consumption was from livestock, or the livestock was consumed by humans, the land must be capable of sustaining the minimum number of animal unit months of carrying capacity described in (9), with cattle as the base.

~~(11) If the consumption was from livestock, or the livestock was consumed by humans, the land must be capable of sustaining the minimum number of animal unit months of carrying capacity described in (8), with cattle as the base.~~

~~(12) Acceptable proof of production shall include:~~

~~(a) a statement from the United States Farm Services Agency (FSA) indicating estimated yield if crops are the basis for income;~~

~~(b) if livestock is the basis for income, information the taxpayer or their agent obtains from the NRCS web site, or a statement from the NRCS or the county agricultural extension agent indicating that the parcel(s) is/are capable of producing in its current state the minimum number of animal unit months of carrying capacity described in (8); and~~

~~(c) a confirmation by the department.~~

~~(13) For valuation as agricultural land, the owner of land used as a Christmas tree farm must provide proof that:~~

~~(a) all trees are cultivated or under accepted, proven husbandry practices;~~

~~(b) all trees are sheared on a regular basis;~~

~~(c) the property contains a minimum of 2,000 trees; and~~

~~(d) the Christmas tree operation continues to produce at least \$1,500 in gross annual income once the initial crop of trees reaches salable maturity.~~

~~(14) For valuation as agricultural land, the owner of land used as a fruit tree orchard must provide proof that:~~

~~(a) there are a minimum of 100 trees;~~

~~(b) they are under accepted fruit tree husbandry practices; and~~

~~(c) the fruit tree operation continues to produce at least \$1,500 in gross annual income once the initial crop of trees begins to produce fruit.~~

~~(15) Land qualifying in (13) and (14) will be assessed at the value established by the department for the highest productivity level of nonirrigated continuously cropped farm land.~~

~~(16) For valuation as agricultural land, the owner of land used solely for summer fallow farmland as defined in the Montana Agricultural Classification and Appraisal Manual must produce a minimum of \$1,500 in agricultural crop income every other growing season.~~

(11) Land used solely for summer fallow farmland must produce a minimum of \$1,500 in agricultural crop income every other growing season to be valued as agricultural land.

~~(17)~~(12) A parcel or parcels of land less than 20 acres that meet all of the following criteria will remain classified and valued as agricultural land or as nonqualified agricultural land as defined in 15-6-133 and 15-7-202, MCA. The criteria that must be met are:

(a) remains the same.

(b) the parcel or parcels previous to a reduction in acreage as defined in ~~(17)~~(c) totaled 20 acres or more in size and qualified as agricultural land or as nonqualified agricultural land under 15-6-133 and 15-7-202, MCA;

(c) and (d) remain the same.

~~(18)~~(13) A parcel or parcels of land that meet the criteria in ~~(17)~~(a) through ~~(17)~~(d) (12)(a) through (d) are eligible for the classification determination identified in ~~(17)~~(12) regardless of when the acreage reduction occurred. However, taxpayers must notify the department of their eligibility in writing by the first Monday in June or within 30 days after receiving an the date on the assessment notice from the Department of Revenue, whichever is later.

~~(19)~~(14) No refunds of taxes resulting from a reclassification of parcels under this part will be allowed for any tax year prior to the tax year in which the taxpayer notifies the department of their eligibility in ~~(18)~~(13).

~~(20)~~(15) For contiguous and noncontiguous parcels of land under one ownership as defined in ARM 42.20.601 totaling less than 20 acres in size, any acreage in excess of that stated in the forest land classification in ARM 42.20.705 is classified as agricultural provided the acreage is actively devoted to qualifying agricultural use.

AUTH: 15-1-201, MCA

IMP: 15-7-201, 15-7-202, 15-7-203, 15-7-206, 15-7-207, 15-7-208, 15-7-209, 15-7-210, 15-7-212, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.620 to incorporate language currently found in ARM 42.20.625, which the department is proposing to repeal. The purpose of combining the two rules is to eliminate language duplication and to provide the information together in a single rule for better clarity.

The department further proposes amending the rule to set forth the expectations of a bona fide agricultural operation and to provide the income requirements for meeting agricultural classification. Furthermore, the rule is proposed to be restructured and renumbered to improve the overall readability of the rule and the title is proposed to be changed to reflect the content of the rule as amended.

42.20.660 NONIRRIGATED SUMMER FALLOW FARM LAND

(1) Nonirrigated summer fallow farm land productivity values for each year of the reappraisal cycle beginning January 1, ~~2009~~ 2015, are:

(a) remains the same.

(b) For the reappraisal cycle beginning January 1, ~~2009~~ 2015, the per acre nonirrigated summer fallow farm land value is calculated as follows:

(i) ~~Average price for spring wheat = \$4.58 per bushel;~~

(ii) ~~Gross income per acre = Number of bushels per acre times \$4.58 the average price per bushel for spring wheat;~~

~~(iii)~~(ii) Net income per acre = Gross income per acre times 12.5% percent, which is the ~~landlords~~ landlord's crop share percentage for nonirrigated summer fallow farm land; and

~~(iv)~~(iii) Productivity value per acre = Net income per acre divided by ~~0.064~~, which is the capitalization rate of 6.4%, in decimal form, as set forth in 15-7-201, MCA.

~~(c) For lands with an increase in value the department will apply a phase-in percentage as defined in 15-7-111, MCA, and ARM 42.20.503 to the full reappraisal productivity values for nonirrigated summer fallow farm land for the reappraisal cycle beginning January 1, 2009.~~

~~(i) For lands with a decrease in value as a result of the 2009 reappraisal, the lower value will be implemented immediately.~~

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-7-201, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.660 to update the reappraisal dates for the 2015 reappraisal. The commodity prices are proposed to be stricken and moved to New Rule I to consolidate and locate all commodity prices together in a single location. Phase-in language is removed to eliminate duplication in other agricultural land use classification rules.

The department further proposes making grammatical and punctuation amendments.

42.20.665 NONIRRIGATED, CONTINUOUSLY CROPPED FARM LAND

(1) Nonirrigated continuously cropped fallow farm land productivity values for each year of the reappraisal cycle beginning January 1, ~~2009~~ 2015, are:

(a) remains the same.

(b) For the reappraisal cycle beginning January 1, ~~2009~~ 2015, the per acre nonirrigated continuously cropped farm land value is calculated as follows:

(i) ~~Average price for spring wheat = \$4.58 per bushel;~~

(ii) ~~Gross income per acre = Number of bushels per acre times \$4.58 the average price per bushel for spring wheat;~~

~~(iii)(ii)~~ Net income per acre = Gross income per acre times 25% percent, which is the ~~landlord's~~ landlord's crop share percentage for nonirrigated continuously cropped farm land; and

~~(iv)(iii)~~ Productivity value per acre = Net income per acre divided by ~~0.064, which is the capitalization rate of 6.4%, in decimal form, as set forth in 15-7-201(4)(c), MCA.~~

~~(c) For lands with an increase in value the department will apply a phase-in percentage as defined in 15-7-111, MCA, and ARM 42.20.503 to the full reappraisal productivity values for nonirrigated continuously cropped fallow farm land for the reappraisal cycle beginning January 1, 2009.~~

~~(i) For lands with a decrease in value as a result of the 2009 reappraisal, the lower value will be implemented immediately.~~

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-7-201, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.665 to update the reappraisal dates for the 2015 reappraisal. The commodity prices are proposed to be stricken and moved to New Rule I to consolidate and locate all commodity prices together in a single location. Phase-in language is removed to eliminate duplication in other agricultural land use classification rules.

42.20.670 NONIRRIGATED CONTINUOUSLY CROPPED HAY LAND

(1) Nonirrigated continuously cropped hay land productivity values for each year of the reappraisal cycle beginning January 1, ~~2009~~ 2015, are:

(a) remains the same.

(b) For the reappraisal cycle beginning January 1, ~~2009~~ 2015, the per acre nonirrigated continuously cropped hay land value is calculated as follows:

(i) ~~Average price for alfalfa = \$63.04 per ton;~~

(ii) Gross income per acre = Number of tons per acre times \$63.04 the average price per ton for alfalfa;

(iii)(ii) Net income per acre = Gross income per acre times 25% percent, which is the ~~landlords~~ landlord's crop share percentage for nonirrigated continuously cropped hay land; and

(iv)(iii) Productivity value per acre = Net income per acre divided by 0.064, which is the capitalization rate of 6.4%, in decimal form, as set forth in 15-7-201, MCA.

(c) ~~For lands with an increase in value the department will apply a phase-in percentage as defined in 15-7-111, MCA, and ARM 42.20.503 to the full reappraisal productivity values for nonirrigated continuously cropped hay land for the reappraisal cycle beginning January 1, 2009.~~

(i) ~~For lands with a decrease in value as a result of the 2009 reappraisal, the lower value will be implemented immediately.~~

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-7-201, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.670 to update the reappraisal dates for the 2015 reappraisal. The commodity prices are proposed to be stricken and moved to New Rule I to consolidate and locate all commodity prices together in a single location. The department further proposes striking the phase-in language to eliminate duplication in other agricultural land use classification rules and making grammatical and punctuation corrections.

42.20.675 TILLABLE IRRIGATED FARM LAND (1) ~~Tillable irrigated~~ Irrigated farm land values for each year of the reappraisal cycle beginning January 1, ~~2009~~ 2015, are:

(a) remains the same.

(b) For the reappraisal cycle beginning January 1, ~~2009~~ 2015, the per acre ~~tillable~~ irrigated farm land value is calculated as follows:

(i) ~~Average price for alfalfa = \$63.04 per ton;~~

(ii) Gross income per acre = Number of tons per acre times \$63.04 the average price per ton for alfalfa;

(iii)(ii) Net income per acre = Gross income per acre times 25% percent, which is the ~~landlords~~ landlord's crop share percentage for ~~tillable~~ irrigated farm land;

(iv)(iii) Less water cost = Net income per acre minus water cost allowance; and

(v)(iv) Productivity value per acre = Net income per acre less water cost allowance divided by 0.064, which is the capitalization rate of 6.4%, in decimal form, as set forth in 15-7-201, MCA.

(c) ~~There are seven~~ The allowable water cost classes for ~~tillable~~ irrigated farm land: are as follows:

WATER COST CLASSES (WC)

WC1	WC2	WC3	WC4	WC5	WC6	WC7
Under	\$20.00	\$25.00	\$30.00	\$35.00	\$40.00	\$45.00
\$19.99	\$24.99	\$29.99	\$34.99	\$39.99	\$44.99	\$49.99

(2) For lands with an increase in value the department will apply a phase-in percentage as defined in 15-7-111, MCA and ARM 42.20.503 to the full reappraisal productivity values for tillable irrigated farm land for the reappraisal cycle beginning January 1, 2009, if the values are higher than the base values in effect for tax year 2008.

(i) For lands with a decrease in value as a result of the 2009 reappraisal, the lower value will be implemented immediately.

(3) The phase-in formula for each year of the reappraisal cycle is as follows:

(a) change in value = full reappraisal value - value before reappraisal;

(b) phase-in value (year 1) = value before reappraisal + (change in value x .1666);

(c) phase-in value (year 2) = value before reappraisal + (change in value x .3342);

(d) phase-in value (year 3) = value before reappraisal + (change in value x .4998);

(e) phase-in value (year 4) = value before reappraisal + (change in value x .6664);

(f) phase-in value (year 5) = value before reappraisal + (change in value x .8330); and

(g) phase-in value (year 6) = value before reappraisal + (change in value x 1.000).

(4) The following examples demonstrate how the phase-in formula calculates the assessed value for irrigated land:

(a) For 2008:

(i) the 2008 full reappraisal value for irrigated land in water class five is \$518.63;

(ii) the full reappraisal value for the same irrigated land in water class five in 2014 is \$553.51; and

(iii) the change in value is \$34.88 (\$553.51 - \$518.63).

(b) The 2009 phase-in value = \$518.63 + (34.88 x .1666) = \$518.63 + \$5.81 or \$524.44.

(c) For 2013:

(i) the 2008 full reappraisal value for irrigated land in water class five is \$518.63;

(ii) the full reappraisal value for the same irrigated land in water class five in 2014 is \$553.51; and

(iii) the change in value is \$34.88 (\$553.51 - \$518.63).

(d) The 2013 phase-in value = \$518.63 + (34.88 x .8330) = \$518.63 + \$29.06 or \$547.69.

(5) The department will not apply a phase-in percentage calculation to the full reappraisal productivity values for tillable irrigated farm land values for the reappraisal cycle beginning January 1, 2009, if the values are lower than the base

values in effect for tax year 2008. If the full reappraisal productivity values for tillable irrigated farm land are lower than the base values in effect for tax year 2008, the full reappraisal productivity values for tillable irrigated farm land will be fully implemented on January 1, 2009, and remain in effect for each year of the reappraisal cycle.

(6) through (10) remain the same, but are renumbered (2) through (6).

~~(11)~~(7) The minimum value of irrigated land is \$411.48 as determined by using 23 bushels of spring wheat and the nonirrigated continuously cropped farmland farm land methodology.

(12) and (13) remain the same, but are renumbered (8) and (9).

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-7-201, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.675 to update the reappraisal dates for the 2015 reappraisal. The commodity prices are proposed to be stricken and moved to New Rule I to consolidate and locate all commodity prices together in a single location. The Water Cost Class table is proposed to be amended to remove a class that is no longer used. Phase-in language is proposed to be stricken to eliminate duplication in other agricultural land use classification rules.

42.20.680 GRAZING LAND (1) Grazing land productivity values for each year of the reappraisal cycle beginning January 1, ~~2009~~ 2015, are:

(a) remains the same.

(b) For the reappraisal cycle beginning January 1, ~~2009~~ 2015, the per acre grazing land value is calculated as follows by:

(i) Average multiplying the average private grazing lease = \$15.72 per Animal Unit Month (AUM) by 25 percent to determine the landlord's share of expenses;

(ii) Less expense allowance = \$ 3.93 per AUM (\$15.72 X 25%) subtracting the landlord's share of expenses from the average private grazing lease per AUM to determine the adjusted gross income per AUM;

(iii) Adjusted multiplying the adjusted gross income per AUM = \$11.79 (\$15.72 minus \$3.93) by the productivity of the grazing land expressed as AUMs per acre to determine net income; and

(iv) Statewide average productivity = 0.31 AUM per acre; dividing the net income by the cap rate identified in 15-7-211, MCA.

(v) Net income per acre = \$11.79 per AUM times X AUM per acre; and

(vi) Productivity value per acre = Net income per acre divided by 0.064, which is the capitalization rate of 6.4%, in decimal form, as set forth in 15-7-201(4)(c), MCA.

(c) For lands with an increase in value the department will apply a phase-in percentage as defined in 15-7-111, MCA, and ARM 42.20.503 to the full reappraisal productivity values for grazing land for the reappraisal cycle beginning January 1, 2009.

(i) For lands with a decrease in value as a result of the 2009 reappraisal, the lower value will be implemented immediately.

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-7-201, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.680 to update the reappraisal dates for the 2015 reappraisal. The commodity prices are proposed to be stricken and moved to New Rule I to consolidate and locate all commodity prices together in a single location. The department further proposes striking the phase-in language to eliminate duplication in other agricultural land use classification rules.

42.20.705 FOREST LAND ASSESSMENT (1) The department ~~shall~~ will assess land as forest lands according to the following basic determinations.

(a) Forest lands are:

(i) contiguous forested land of 15 acres or more, that is at least 120 feet in width in the same ownership and is capable of producing timber that can be harvested in commercial quantity; and

(ii) land that is producing timber or land in which the trees have been removed by man through harvest, including clear-cuts, or by natural disaster, including, but not limited to fire;

(2) Classified forest land that is reduced to less than 15 acres for a public use as the result of a land acquisition through eminent domain, as set forth in 70-30-102, MCA, maintains its forest land classification unless the forest land:

(a) has been further divided; or

(b) is devoted to a residential, commercial, or industrial use.

(3) Taxpayers must notify the department in writing of their eligibility for forest land classification for the current tax year on or before the first Monday in June, or within 30 days after the date on the assessment notice.

(iii) land that is not classified as nonforest land.

(4) Nonforest land is land used for agricultural, nonqualifying agricultural, industrial, commercial, or residential purposes.

AUTH: 15-44-105, MCA

IMP: 15-6-143, 15-44-101, 15-44-102, 15-44-103, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.705 to implement House Bill 195, L. 2013, (15-6-143, MCA) which allows forest land classification even though public use of the forest land decreases the total amount below the required 15 acres. The department treats agricultural and forest land classifications similarly and the proposed amendments to this rule bring consistency to both property types. The proposed amendments to the rule will benefit forest land owners impacted by governmental decisions to acquire land through eminent domain.

The department proposes new (3) to set forth the requirement for forest land owners to timely notify the department of their eligibility for forest land classification for the current tax year and provides the date parameters for the notification requirement.

The department further proposes adding 15-6-143, MCA, as an implementing statute.

42.20.720 FOREST LAND VALUATION ZONES (1) and (1)(a) remain the same.

(b) Zone 2 - Southwest: Beaverhead, Deer Lodge, Granite, Jefferson, ~~Lewis and Clark~~, Madison, Mineral, Missoula, Powell, Ravalli, and Silver Bow counties;

(c) Zone 3 - Central: Blaine, Broadwater, Cascade, Chouteau, Fergus, Gallatin, Glacier, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Park, Pondera, Teton, Toole, and Wheatland counties;

(d) remains the same.

AUTH: 15-1-201, 15-44-105, MCA

IMP: 15-44-101, 15-44-102, 15-44-103, 15-44-104, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.720 to update the forest land valuation zones by moving Lewis and Clark County from Zone 2 to Zone 3 for the 2015 reappraisal.

42.20.725 FOREST LAND VALUATION FORMULA (1) through (5)(b) remain the same.

(c) R is the capitalization rate.

(i) For the appraisal cycle beginning after December 31, ~~2008~~ 2014, and concluding on December 31, ~~2014~~ 2020, the capitalization rate used ~~in the determination of value for all forest land in Montana is statutorily established at~~ is 8% percent.

(6) through (9) remain the same.

AUTH: 15-1-201, 15-44-105, MCA

IMP: 15-44-101, 15-44-102, 15-44-103, 15-44-104, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.725 to update the dates for the 2015 reappraisal and to make a grammatical change.

42.20.730 FOREST COSTS (1) The determination of forest costs in ARM 42.20.725 ~~represent~~ represents the average costs for reforestation, fire assessment, slash disposal, timber stand improvement, timber harvest, forest practices, administration, and the severance tax over the base period specified in ARM 42.20.725.

(2) Forest costs, with the exception of the fire assessment fee and the severance tax, are calculated from the actual expenditures for those activities conducted by the Department of Natural Resources and ~~Conservation~~, Conservation's Forestry and Trust Land Management Division (DNRC).

(3) The average forest cost in each forest valuation zone is derived from DNRC land management areas. The fire assessment fee will be the average fee the DNRC charges landowners over the base period. The severance tax is the average

severance tax that is paid by landowners who harvest timber over the base period in each land management area. Forest costs ~~shall~~ will be deducted from the per acre gross timber income.

AUTH: 15-1-201, 15-44-105, MCA

IMP: 15-44-101, 15-44-102, 15-44-103, 15-44-104, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.730 to include the names of the divisions that provide forest cost information to the department and to restructure the rule to partition one long section into three sections to improve readability.

42.20.735 FOREST LAND ELIGIBILITY - GENERAL PRINCIPLES (1) and (2) remain the same.

(3) The property owner of record or the owner's agent must provide proof of eligibility on an application form prescribed by the department.

(a) Forest land application forms ~~shall~~ will be available at the local department office. Applications must be submitted to the local department office in the county in which the property is located ~~prior to the first Monday in June of the year for which the reclassification is being sought,~~ on or before the first Monday in June of the current tax year or within 30 days after ~~receiving the notice of classification and appraisal from the department, whichever is later~~ the date on the assessment notice.

(b) through (4) remain the same.

AUTH: 15-1-201, 15-44-105, MCA

IMP: 15-44-101, 15-44-102, 15-44-103, 15-44-104, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.20.735 to bring consistency in the rule language and to better define and administer the 30-day timeline set forth in 15-7-102, MCA.

42.20.740 NATURAL DISASTER REDUCTION - GENERAL PRINCIPLES

(1) Forest lands upon which, after December 31, 1993, trees are destroyed by fire, disease, insect infestation, or other natural disaster shall be eligible for a 50% percent reduction in assessed value for 20 tax years beginning the first full tax year following the natural disaster.

(2) The property owner of record as of January 1 of the first full tax year for which the reduction in value is sought or that owner's agent must complete an application with the local department office in which the property is located. The application prescribed by the department will be the property adjustment form ~~(AB-26)~~ Form AB-26. The application must be made ~~by~~ on or before the first Monday in June or within 30 days ~~of receipt of~~ after the date on the assessment notice for the first full year for which the reduction in value is requested.

(3) through (5) remain the same.

AUTH: 15-1-201, 15-44-105, MCA

IMP: 15-44-101, 15-44-102, 15-44-103, 15-44-104, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.740 to bring consistency in the rule language and to allow mailing time for the taxpayer to receive the assessment notice before the 30-day timeline begins.

The department further proposes making grammatical edits.

42.20.745 FOREST LAND (1) Forest land productivity values are calculated by using the formula defined in 15-44-103, MCA.

(a) For forest land with an increase in value as a result of the ~~2009~~ 2015 reappraisal, the department will apply the phase-in percentage as defined in 15-7-111, MCA, and ARM 42.20.503 to the full reappraisal productivity values for forest land for the reappraisal cycle beginning January 1, ~~2009~~ 2015.

(b) For forest lands with a decrease in value as a result of the ~~2009~~ 2015 reappraisal, the lower value will be fully implemented immediately and will not be phased in.

(2) remains the same.

(3) The following examples demonstrate how the phase-in formula calculates the per-acre assessed value for forest land:

(a) For tax year ~~2009~~ 2015:

(i) the ~~2008~~ 2014 full reappraisal value for forest land is \$518.63 per-acre;

(ii) the full reappraisal value for the same forest land in ~~2014~~ 2020 is \$553.51 per-acre; and

(iii) the change in value is \$34.88 (\$553.51 - \$518.63).

(b) The ~~2009~~ 2015 phase-in value per-acre = \$518.63 + plus (34.88 x .1666) = \$518.63 + plus \$5.81 or \$524.44 per-acre.

~~(c) For tax year 2013:~~

~~(i) the 2008 full reappraisal value for forest land is \$518.63 per-acre;~~

~~(ii) the full reappraisal value for the same forest land in 2014 is \$553.51 per-acre; and~~

~~(iii) the change in value is \$34.88 (\$553.51 - \$518.63).~~

~~(d) The 2013 phase-in value = \$518.63 + (34.88 x .8330) = \$518.63 + \$29.06 or \$547.69 per-acre.~~

AUTH: 15-1-201, 15-44-105, MCA

IMP: 15-44-103, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.745 to update the dates and remove confusing language for the 2015 reappraisal.

5. The department proposes to repeal the following rules:

42.20.605 AGRICULTURAL LANDS

AUTH: 15-1-201, MCA

IMP: 15-6-133, 15-7-103, MCA

REASONABLE NECESSITY: The department proposes repealing ARM 42.20.605 and placing the relevant information into ARM 42.18.121 and 42.18.122, to locate all appraisal manual information together in the same location within the Montana Appraisal Plan subchapter of ARM Title 42.

42.20.607 CORRECTION OF VALUE BEFORE REAPPRAISAL (VBR) FOR 2009 AGRICULTURAL LAND

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-7-111, 15-7-201, MCA

REASONABLE NECESSITY: The department proposes repealing ARM 42.20.607, because the rule is no longer necessary as it pertains to the valuation of agricultural land for the 2009 Reappraisal cycle and does not apply to the upcoming reappraisal cycle that begins on January 1, 2015.

42.20.625 CRITERIA FOR AGRICULTURAL LAND VALUATION FOR LAND TOTALING 20 TO 160 ACRES IN SIZE

AUTH: 15-1-201, MCA

IMP: 15-6-133, 15-6-134, 15-7-201, 15-7-202, MCA

REASONABLE NECESSITY: The department proposes repealing ARM 42.20.625 and relocating the relevant content of the rule to ARM 42.20.620 to eliminate language duplication.

6. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than November 20, 2014.

7. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

8. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 6 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

9. An electronic copy of this notice is available on the department's web site at revenue.mt.gov. Select the Administrative Rules link under the Other Resources section located in the body of the homepage, and open the Proposal Notices section within. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 132, L. 2011, Representative Brian Hoven, was notified by regular mail on December 15, 2011, and subsequently notified by regular mail on September 15, 2014. The primary sponsor of House Bill 195, L. 2013, Representative Pat Ingraham, was notified by regular mail on June 21, 2013, and subsequently notified on September 9, 2014. The primary sponsor of Senate Bill 231, L. 2013, Senator Shannon Augare, was notified by regular mail on July 29, 2013, and subsequently notified on August 26, 2014.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption, amendment, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State October 14, 2014.